

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM G. MOORE,

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C14-5177 BHS

ORDER DENYING PETITION
FOR WRIT OF HABEAS
CORPUS

This matter comes before the Court on Petitioner William G. Moore's ("Moore") petition for writ of habeas corpus (Dkt. 1).

On February 28, 2014, Moore filed the instant petition requesting habeas relief based on two recent Supreme Court cases, *Alleyne v. United States*, 133 S. Ct. 2151 (2013), and *McQuiggen v. Perkins*, 133 S. Ct. 1924 (2013). Dkt. 1. On March 3, 2014, the Court requested an answer from the Government. Dkt. 3. On May 2, 2014, the Government answered. Dkt. 4. On May 12, 2014, Moore replied. Dkt. 5.

With regard to Moore's *Alleyne* claim, the holding in *Alleyne* does not apply to Moore's sentence. In *Alleyne*, the Court held that any fact that increases a mandatory minimum must be submitted to the jury. *Alleyne*, 133 S. Ct. at 2155. Moore was

1 sentenced to a term within the guideline range and was not sentenced to the mandatory
2 minimum. Therefore, Moore's motion is denied as frivolous.

3 With regard to Moore's *McQuiggen* claim, Moore's actual innocence claim has
4 previously been presented in other § 2255 motions. Therefore, the Court dismisses the
5 claim because it is a second or successive petition and Moore must first file the petition
6 with the Ninth Circuit. 28 U.S.C. § 2255(h).

7 Therefore, it is hereby **ORDERED** that Moore's petition for writ of habeas corpus
8 is **DENIED** and a certificate of appealability is **DENIED**.

9 Dated this 2nd day of June, 2014.

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12 BENJAMIN H. SETTLE
13 United States District Judge
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